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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff;

vs.

ROBERT KINCADE, et. al.,

Defendants.

CASE NO.: 2:15-cr-00071-JAD-GWF

**MOTION TO EXTEND TIME IN WHICH
TO REPLY TO GOVERNMENT'S
OPPOSITION TO KINCADE'S MOTION
TO DISMISS AND PROPOSED ORDER**

(Second request)

Robert Kincade, by and through his counsel of record, Kathleen Bliss, Esq., moves this Court for an order extending the deadline by which he must file his reply to the government's opposition to his motion to dismiss the indictment (ECF No. 130) to November 11, 2016, based upon the following:

1. On October 3, 2016, Kincade filed his motion to dismiss the indictment for prosecutorial delay and misconduct. ECF No. 130. The government filed its response in opposition on October 20, 2016. ECF No. 163. Kincade's reply was originally due October 26, 2016.
2. Kincade was prepared to file his reply on the original due date. However, around 4:00 p.m. on October 25, 2016 (the afternoon prior to the due date), the government provided notice to counsel for Kincade that new discovery was available for pickup at the U.S. Attorney's Office. Counsel was unable to retrieve this discovery until October 26.
3. Included in this new discovery are five compact discs containing hundreds of recorded

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1 telephone calls made by defendant Kincade between May-September 2016, while in
2 custody at CCA-Pahrump.

- 3
- 4 4. The government's intrusion into the attorney-client relationship through its receipt of
5 privileged phone calls between Kincade and his counsel, produced to the USAO by
6 CCA-Pahrump pursuant to subpoena, is part of the basis of Kincade's pending motion
7 to dismiss.
- 8 5. Counsel required additional time to review the newly produced recorded telephone
9 calls so that the full extent of the government's intrusion into the privilege may be
10 outlined in his reply brief. The late production of these calls made it impossible for
11 counsel to do so before the original deadline. Kincade therefore moved for additional
12 time to file his reply, to November 4, 2016, and his request was granted by the Court.
13 ECF No. 173.
- 14 6. Counsel has reviewed the discovery provided by the government, and included in it are
15 numerous additional privileged phone calls between Kincade and his attorneys.
16 However, the government inadvertently failed to produce any calls made by Kincade
17 during the month of May 2016. The government has indicated that its case agent will
18 not be able to gather and produce these calls to Kincade until November 8, 2016, at the
19 earliest.
- 20 7. Kincade and the government agree to the relief requested, i.e., additional time to reply,
21 however were unable to agree to the specific language of a proposed stipulation.
22 Accordingly this motion follows.
- 23 8. Kincade wishes to make clear for the record that he continues to assert his right to a
24 speedy trial and has not requested an extension of the trial or briefing dates to
25 accommodate his own schedule or otherwise buy more time on his own accord. This
26 request for an extension of the briefing schedule is made only because he has not
27 received necessary discovery from the government. This is the second request for an
28 extension of the reply brief deadline, both having been made for the same reason.

9. Based upon the foregoing, Kincade requests that the Court extend the deadline by which he must file his reply in support of his motion to dismiss the indictment to **November 11, 2016.**

10. The parties further request that the Court keep the hearing on this matter as currently scheduled for November 17, 2016, at 3:00 p.m.

11. This motion is submitted in good faith and not for purposes of delay.

Dated this 3rd day of November 2016.

Respectfully submitted,

KATHLEEN BLISS LAW PLLC

/s/ Kathleen Bliss

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ORDER

Upon review and consideration, and good cause appearing, it is hereby ORDERED that Defendant's reply in support of his motion to dismiss the indictment is due no later than November 11, 2016. IT IS FURTHER ORDERED that the hearing on Defendant's motion shall remain as scheduled for Thursday, November 17, 2016, at 3:00 p.m.

DATED: November 4, 2016

George Foley Jr.

GEORGE FOLEY, JR.
UNITED STATES MAGISTRATE JUDGE

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CERTIFICATE OF SERVICE

I certify that I am an employee of KATHLEEN BLISS LAW PLLC and that on this 3rd day of November 2016, I did cause a true copy of:

**MOTION TO EXTEND TIME IN WHICH TO REPLY TO GOVERNMENT'S
OPPOSITION TO KINCADE'S MOTION TO DISMISS AND PROPOSED ORDER**

to be served electronically via the Court's CM/ECF filing system.

By: /s/ Jason Hicks
An employee of
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